

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

LADDY CURTIS VALENTINE and  
RICHARD ELVIN KING, on behalf of  
themselves and others similarly situated,

Plaintiffs,

V.

BRYAN COLLIER, in his official capacity,  
ROBERT HERRERA, in his official  
capacity, and TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE,

Defendants.

Civil Action No.  
4:20-cv-1115

**PLAINTIFFS' UNOPPOSED MOTION FOR  
LEAVE TO FILE EXHIBIT UNDER SEAL**

Plaintiffs respectfully request leave to file exhibit 92—a letter submitted by TDCJ to the Fifth Circuit—under seal.

Plaintiffs sue on behalf of a putative class of Texas state prisoners at the Pack Unit at risk of injury and death from the novel coronavirus of 2019 (COVID-19), a rapidly spreading contagious disease that can kill or irreparably harm its victims—especially the elderly and ill. *See* Doc. 1; Doc. 40. Plaintiffs allege that the Defendants are deliberately indifferent to the risk of COVID-19—including by failing to take common-sense steps to control the transmission of the disease, contrary CDC guidelines and TDCJ’s own policies—which is causing ongoing harm to other Pack Unit inmates and poses a substantial risk of serious harm to Plaintiffs and the entire putative class.

Plaintiffs move for class certification by contemporaneous filing.

The Court has entered a protective order in this case which contemplates that certain documents will be designated confidential by the producing party, and that, if they are used, they will be filed under seal. *See* Doc. 87.

Plaintiffs' contemporaneously filed motion for class certification cites to Exhibit 92, a letter TDCJ sent the Fifth Circuit on May 11, 2020. The letter was not formally designated confidential, but was filed under seal with the Fifth Circuit. The letter identifies 22 inmates who tested positive for COVID-19 while at the Pack Unit, three of whom died, and four employees who tested positive. The letter also states that only 132 inmates and 15 employees at the Pack Unit have been tested for COVID-19, including 23 inmate tests that are pending and two employee tests that are pending.

The letter, signed only by counsel, also asserts various facts about how TDCJ policy has been implemented at the Pack Unit.

TDCJ filed Exhibit 92 under seal in a different court. TDCJ indicated that they opposed unsealing the document. Plaintiffs feel they are obligated to treat the document as confidential, barring agreement of the parties or an order from the Court.

Accordingly, Plaintiffs respectfully request the Court grant leave to file Exhibit 92 under seal.

Dated: May 13, 2020

WINSTON & STRAWN LLP

Jeff Edwards  
State Bar No. 24014406  
Scott Medlock  
State Bar No. 24044783  
Michael Singley  
State Bar No. 00794642  
David James  
State Bar No. 24092572  
Federal ID No. 2496580  
EDWARDS LAW GROUP  
The Haehnel Building  
1101 East 11th Street  
Austin, TX 78702  
Tel. (512) 623-7727  
Fax. (512) 623-7729

By: /s/ John R. Keville  
John R. Keville  
*Attorney-in-Charge*  
Texas State Bar No. 00794085  
S.D. Tex. ID No. 20922  
jkeville@winston.com  
Denise Scofield  
Texas Bar No. 00784934  
S.D. Tex. ID No. 1529  
dscofield@winston.com  
Michael T. Murphy  
Texas Bar No.  
S.D. Tex. ID No.  
MTMurphy@winston.com  
Brandon W. Duke  
Texas Bar No. 240994476  
S.D. Tex. ID No. 2857734  
bduke@winston.com  
800 Capital Street, Suite 2400  
Houston, Texas 77002  
Tel. (713) 651-2600  
Fax (713) 651-2700

***Counsel for Plaintiffs***

**CERTIFICATE OF SERVICE**

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Southern District of Texas.

By /s/ Jeff Edwards  
JEFF EDWARDS

**CERTIFICATE OF CONFERENCE**

By my signature below, I certify that I have conferred with counsel for the Defendants, and counsel indicated Defendants wished Exhibit 92 to be filed under seal as requested in this motion.

By /s/ Jeff Edwards  
Jeff Edwards